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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,349	03/26/2004	Pieter Theodorus Johannes Aquarius	VER-179XX	8227
207 7590 08/28/2007 WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			EXAMINER LOPEZ, MICHELLE	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 08/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/810,349

Applicant(s)

AQUARIUS, PIETER THEODORUS  
JOHANNES

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10, 11, 13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-11, 13, 15, 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment after Notice of Appeal filed on 8/8/07.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 10-11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallas 4,864,801 in view of Leibetseder 4,805,379.

Fallas discloses an apparatus for loading containers with bags comprising a feed conveyor assembly; a loading unit; control means for moving a layer of bags in the loading unit, the layer having dimensions substantially corresponding to at least one bottom dimension of a container to be loaded; wherein the loading unit includes a holder 66 which is movable up and down (see col. 5; lines 38-43), but does not specifically disclose wherein the holder being sized to be substantially fittingly receivable in the container to be loaded, wherein the control means, including a sensor, controls the loading unit to place the layer by moving the holder down into said container to be loaded at a predetermined distance reported by the sensor to the control means and wherein the holder is partly carried by one pressure controlled air cylinder and is partly carried by a drive controlling a vertical position of the holder. However, Leibetseder teaches the concept of an apparatus for packaging stacks of layers comprising a loading unit 24 having a holder 27 being sized to be substantially fittingly receivable in a container to be loaded (see fig. 4); control means, including a sensor, which controls the loading unit to place a layer of

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objects by moving the holder down into said container to be loaded at a predetermined distance reported by a sensor to the control means (see col. 5, lines 7-16), and wherein the holder is partly carried by one pressure controlled air cylinder 35 and is partly carried by a drive controlling a vertical position of the holder for the purpose of automatically packaging stacks of layers in a plurality of layers into a container . It would have been obvious to one having ordinary skill in the art to have substituted the holder of Fallas for the holder of Leibetseder in order to automatically packaging stacks of layers in a container by moving up and down said holder into said container.

Fallas also discloses a stop 26, a first conveying direction, a transfer device 40, a further conveying path with a second conveying direction perpendicular to the first conveying direction (claim 5) and a conveying system for containers as shown in fig. 1 (claim 15).

With respect to claims 10-11, while Fallas discloses a bottom of the holder formed by a curtain, wherein the curtain has two curtain parts which are movable from a closed position away from each other to an open position, Fallas does not disclose a flexible curtain. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provide a flexible material forming the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

3. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallas 4,864,801 in view of Leibetseder 4,805,379, and further in view of Focke 5,430,994.

The modified invention of Fallas further discloses a first rotating system 30 and a second rotating system 22 one behind the other as shown in Figs. 2A-2E, but does not disclose wherein

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each rotating system comprises two parallel running conveyor belts which are drivable at different speeds. However, Focke teaches the concept of a feeding conveyor having two rotating system 17,16 arranged one behind the other, wherein said rotating systems comprise two parallel running conveyor belts 18,19 and 35,43 which are drivable at different speeds for the purpose of feeding bags to a packer for the packing of packs into containers in groups or layers. It would have been obvious to have provide the modified invention of Fallas further having a rotating system with two parallel running conveyors as taught by Focke in order to pack packs of bags into containers in groups or layers.

With respect to claims 3 and 4, Focke also teaches the concept of rotating a bag through an angle of 45 degrees via the inclination of the first rotating system 17 and rotating the bag through an additional angle of 45 degrees on the second rotating system as shown in Figs. 3-6, and control signals Via 46 (claim 3); and the conveyor 17 is arranged so as to be movable up and down (claim 4).

4. Claims 6-8, 13, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallas 4,864,801 in view of Leibetseder 4,805,379, and further in view of Fallas 5,123,231.

The modified invention of Fallas' 801 discloses a collecting belt at conveyor 24 (claim 6) and folding side plate as shown in Figs. 2A-2E (claim 7), but does not specifically disclose a retracting belt movable as a whole in the second direction. However, Fallas'231 teaches the concept of a collecting belt and a retracting belt 100, i.e. oscillating conveyor, wherein such retracting belt is movable as a whole in a second direction as shown in col. 4; lines 9-53. Therefore, it would have been obvious to one having ordinary skill in the art to provide

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Fallas'801 modified invention and further having a feeding conveyor assembly as taught by Fallas'231 to selectively depositing product groups into receptacles.

With respect to claims 8 and 20, Fallas' 801 also discloses wherein a discharge end at the vicinity of 26 is arranged to be movable up and down.

With respect to claim 13, Fallas'231 also teaches the concept of sensors as proximity switches 222,224.

5. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallas 4,864,801 in view of Leibetseder 4,805,379, and further in view of Focke 5,430,994 and Fallas 5,123,231 as discussed above.

#### ***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/  
Patent Examiner

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700